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EXAMINER	
YIGDALL, MICHAEL J	
ART UNIT	**PAPER NUMBER**
2192	

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/783,553	SATOH, HIROTSUGU	
	Examiner	Art Unit	
	Michael J. Yigdall	2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 April 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Applicant's amendment and response filed on April 8, 2005 has been fully considered. Claims 1-5 remain pending.

Response to Arguments

2. Applicant's arguments have been fully considered but they are not persuasive.

Applicant contends that the limitation wherein "updated software is stored first in ... said computer, and subsequently in said optical recording medium" is not taught or suggested by Mochizuki or Tognazzini (Applicant's remarks, page 4, third paragraph) or Shaw (Applicant's remarks, page 5, second paragraph).

However, Tognazzini expressly discloses that updates or "updated software" may be stored in the read/write or "writable" part of the optical recording medium (see, for example, column 5, lines 11-15). Such updates are downloaded to the optical recording medium through a computer (see, for example, column 5, lines 16-18), which is to say that the updates are stored first in the computer and then in the read/write part of optical recording medium. Furthermore, the computer includes a memory device (see, for example, RAM 410B in FIG. 4). Tognazzini discloses that when storing information in the read/write part of the optical recording medium, the information is transferred from the memory device to the optical recording medium (see, for example, column 6, lines 12-14). Although Tognazzini discloses that "CPU 400 then causes the inputs or monitored information to be transferred from RAM 410B to read/write part 102 of disk 100 (step S506)," as Applicant acknowledges (Applicant's remarks, page 4, third paragraph), the example illustrated in FIG. 5 is representative of the other operations disclosed by Tognazzini

(see, for example, column 5, lines 41-53), such as storing updates or "updated software" in the optical recording medium (see, for example, column 5, lines 11-15). Therefore, Tognazzini teaches that the updated software is stored first in the memory device of the computer, and subsequently in the optical recording medium, as recited in the claims.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,097,814 to Mochizuki (art of record, "Mochizuki") in view of U.S. Pat. No. 6,094,723 to Tognazzini (art of record, "Tognazzini").

With respect to claim 1 (previously presented), Mochizuki discloses an optical recording medium that is computer-readable and -writable (see, for example, column 5, lines 15-21, which shows a computer-readable optical recording medium, and column 9, line 56 to column 10, line 8, which shows that the medium is writable), which medium stores software to be distributed, non-rewritable inherent ID information (see, for example, column 5, lines 29-35, which shows that the medium stores software to be distributed and inherent ID information, and column 5, lines 56-67, which shows that the ID is permanent or non-rewritable), and a transmission program for transmitting the inherent ID information to a software distributor via a

communication device (see, for example, steps S1 and S4 in FIG. 4, and column 7, lines 3-10, which shows that the ID stored on the medium is transmitted to a software distributor).

Mochizuki does not expressly disclose the limitation wherein the medium stores a program for causing updated software to be stored in a memory device of a computer and in said optical recording medium, and wherein said updated software is stored first in said memory device of said computer, and subsequently in said optical recording medium.

However, Tognazzini similarly discloses an optical recording medium that is computer-readable and -writable (see, for example, column 2, lines 8-17). Tognazzini further discloses that updates may be applied to the pre-recorded information stored in the optical recording medium by downloading the updates to the medium through a computer (see, for example, column 5, lines 11-18). Such information is stored first in a memory device of the computer, and subsequently in the optical recording medium (see, for example, column 6, lines 8-17).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to supplement the system of Mochizuki with a program for causing updated software to be stored in a memory device of a computer and in said optical recording medium, wherein said updated software is stored first in said memory device of said computer, and subsequently in said optical recording medium, such as taught by Tognazzini. The modification would have been obvious because one of ordinary skill in the art would have been motivated to provide the ability to update a pre-recorded optical recording medium.

With respect to claim 4 (previously presented), Mochizuki also discloses storing a computer information acquiring program for acquiring information of said computer (see, for example, column 6, lines 17-30, which shows obtaining a drive ID from the reproduction

apparatus that is using the medium), wherein the transmission program transmits the information of the computer, as well as the inherent ID information, to the software distributor (see, for example, steps S1, S2 and S4 in FIG. 4, and column 7, lines 3-10, which shows transmitting the inherent ID of the medium and the drive ID or information of the computer to the software distributor).

5. Claims 2, 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mochizuki in view of Tognazzini in view of U.S. Pat. No. 6,381,741 to Shaw (art of record, "Shaw").

With respect to claim 2 (currently amended), Mochizuki discloses an optical recording medium that is computer-readable and -writable (see, for example, column 5, lines 15-21, which shows a computer-readable optical recording medium, and column 9, line 56 to column 10, line 8, which shows that the medium is writable), which medium stores software to be distributed and non-rewritable inherent ID information (see, for example, column 5, lines 29-35, which shows that the medium stores software to be distributed and inherent ID information, and column 5, lines 56-67, which shows that the ID is permanent or non-rewritable).

Although Mochizuki discloses reproducing the software based on an authentication judgment result of the inherent ID information (see, for example, steps S1, S4, S8 and S9 in FIG. 4), Mochizuki does not expressly disclose a software updating program for rewriting and updating the software in accordance with update software transmitted from a software distributor via a communication device based on an authentication judgment result of the inherent ID information.

However, Shaw discloses an updater or updating program (see, for example, column 4, lines 44-49) for rewriting and updating software with updated code transmitted from a distributor (see, for example, column 5, lines 3-13), based on an authentication judgment result (see, for example, column 4, lines 34-42, which shows comparing a digital signature before beginning the update), after first transmitting ID information (see, for example, column 4, lines 13-18). Shaw further discloses that the updating program securely updates the data by performing integrity tests and confirming that the update is trustworthy (see, for example, column 1, line 66 to column 2, line 10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to supplement the system of Mochizuki with a program for rewriting and updating the software in accordance with update software transmitted from a software distributor via a communication device based on an authentication judgment result of the inherent ID information, such as taught by Shaw. The modification would have been obvious because one of ordinary skill in the art would have been motivated to provide the ability to securely update the software by performing integrity tests and confirming that the update is trustworthy.

Mochizuki in view of Shaw does not expressly disclose the limitation wherein the software updating program is for causing updated software to be stored in a memory device of a computer and in said optical recording medium, and wherein said updated software is stored first in said memory device of said computer, and subsequently in said optical recording medium.

However, Tognazzini similarly discloses an optical recording medium that is computer-readable and -writable (see, for example, column 2, lines 8-17). Tognazzini further discloses that updates may be applied to the pre-recorded information stored in the optical recording medium

by downloading the updates to the medium through a computer (see, for example, column 5, lines 11-18). Such information is stored first in a memory device of the computer, and subsequently in the optical recording medium (see, for example, column 6, lines 8-17).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to supplement the system of Mochizuki and Shaw with a program for causing updated software to be stored in a memory device of a computer and in said optical recording medium, wherein said updated software is stored first in said memory device of said computer, and subsequently in said optical recording medium, such as taught by Tognazzini. The modification would have been obvious because one of ordinary skill in the art would have been motivated to provide the ability to update a pre-recorded optical recording medium.

With respect to claim 3 (previously presented), Mochizuki discloses an optical recording medium that is computer-readable and -writable (see, for example, column 5, lines 15-21, which shows a computer-readable optical recording medium, and column 9, line 56 to column 10, line 8, which shows that the medium is writable), which medium stores software to be distributed, non-rewritable inherent ID information (see, for example, column 5, lines 29-35, which shows that the medium stores software to be distributed and inherent ID information, and column 5, lines 56-67, which shows that the ID is permanent or non-rewritable), and a transmission program for transmitting the inherent ID information to a software distributor via a communication device (see, for example, steps S1 and S4 in FIG. 4, and column 7, lines 3-10, which shows that the ID stored on the medium is transmitted to a software distributor).

Although Mochizuki discloses reproducing the software based on an authentication judgment result of the inherent ID information (see, for example, steps S1, S4, S8 and S9 in FIG.

4), Mochizuki does not expressly disclose a software updating program of rewriting and updating the software in accordance with update software transmitted from the software distributor via the communication device based on an authentication judgment result of the inherent ID information.

However, Shaw discloses an updater or updating program (see, for example, column 4, lines 44-49) for rewriting and updating software with updated code transmitted from a distributor (see, for example, column 5, lines 3-13), based on an authentication judgment result (see, for example, column 4, lines 34-42, which shows comparing a digital signature before beginning the update), after first transmitting ID information (see, for example, column 4, lines 13-18). Shaw further discloses that the updating program securely updates the data by performing integrity tests and confirming that the update is trustworthy (see, for example, column 1, line 66 to column 2, line 10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to supplement the system of Mochizuki with a program for rewriting and updating the software in accordance with update software transmitted from a software distributor via a communication device based on an authentication judgment result of the inherent ID information, such as taught by Shaw. The modification would have been obvious because one of ordinary skill in the art would have been motivated to provide the ability to securely update the software by performing integrity tests and confirming that the update is trustworthy.

Mochizuki in view of Shaw does not expressly disclose the limitation wherein the software updating program is for causing updated software to be stored in a memory device of a

computer and in said optical recording medium, wherein said updated software is stored first in said memory device of said computer, and subsequently in said optical recording medium.

However, Tognazzini similarly discloses an optical recording medium that is computer-readable and -writable (see, for example, column 2, lines 8-17). Tognazzini further discloses that updates may be applied to the pre-recorded information stored in the optical recording medium by downloading the updates to the medium through a computer (see, for example, column 5, lines 11-18). Such information is stored first in a memory device of the computer, and subsequently in the optical recording medium (see, for example, column 6, lines 8-17).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to supplement the system of Mochizuki and Shaw with a program for causing updated software to be stored in a memory device of a computer and in said optical recording medium, wherein said updated software is stored first in said memory device of said computer, and subsequently in said optical recording medium, such as taught by Tognazzini. The modification would have been obvious because one of ordinary skill in the art would have been motivated to provide the ability to update a pre-recorded optical recording medium.

With respect to claim 5 (previously presented), Mochizuki discloses software distributed and stored in a computer-readable and -writable optical recording medium (see, for example, column 5, lines 15-21, which shows software distributed and stored in a computer-readable optical recording medium, and column 9, line 56 to column 10, line 8, which shows that the medium is writable).

Although Mochizuki discloses a method for reproducing software (see, for example, the title and abstract), Mochizuki does not expressly disclose a method of updating software.

However, Shaw discloses a method of upgrading or updating software (see, for example, the title and abstract).

Mochizuki also discloses transmitting non-rewritable inherent ID information to a software distributor via a communication device (see, for example, steps S1 and S4 in FIG. 4, and column 7, lines 3-10, which shows that the ID stored on the medium is transmitted to a software distributor).

Although Mochizuki discloses reproducing the software based on an authentication judgment result of the inherent ID information (see, for example, steps S1, S4, S8 and S9 in FIG. 4), Mochizuki does not expressly disclose rewriting and updating the software in accordance with update software transmitted from the software distributor via the communication device based on an authentication judgment result of the inherent ID information.

However, Shaw discloses an updater or updating program (see, for example, column 4, lines 44-49) for rewriting and updating software with updated code transmitted from a distributor (see, for example, column 5, lines 3-13), based on an authentication judgment result (see, for example, column 4, lines 34-42, which shows comparing a digital signature before beginning the update), after first transmitting ID information (see, for example, column 4, lines 13-18). Shaw further discloses that the updating program securely updates the data by performing integrity tests and confirming that the update is trustworthy (see, for example, column 1, line 66 to column 2, line 10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to supplement the method of Mochizuki with the step of rewriting and updating the software in accordance with update software transmitted from a software distributor via a

communication device based on an authentication judgment result of the inherent ID information, such as taught by Shaw. The modification would have been obvious because one of ordinary skill in the art would have been motivated to provide the ability to securely update the software by performing integrity tests and confirming that the update is trustworthy.

Mochizuki in view of Shaw does not expressly disclose updating software in the computer-readable and -writable optical recording medium and in a memory device of a computer that is currently using the computer-readable and -writable optical recording medium, wherein said updated software is stored first in said memory device of said computer, and subsequently in said optical recording medium.

However, Tognazzini similarly discloses an optical recording medium that is computer-readable and -writable (see, for example, column 2, lines 8-17). Tognazzini further discloses that updates may be applied to the pre-recorded information stored in the optical recording medium by downloading the updates to the medium through a computer (see, for example, column 5, lines 11-18). Such information is stored first in a memory device of the computer, and subsequently in the optical recording medium (see, for example, column 6, lines 8-17).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to supplement the method of Mochizuki and Shaw with the step of updating software in the computer-readable and -writable optical recording medium and in a memory device of a computer that is currently using the computer-readable and -writable optical recording medium, wherein said updated software is stored first in said memory device of said computer, and subsequently in said optical recording medium, such as taught by Tognazzini. The modification

would have been obvious because one of ordinary skill in the art would have been motivated to provide the ability to update a pre-recorded optical recording medium.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Yigdall whose telephone number is (571) 272-3707. The examiner can normally be reached on Monday through Friday from 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MY

Michael J. Yigdall
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PRIMARY EXAMINER